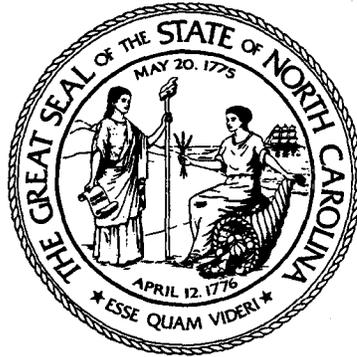


LEGISLATIVE RESEARCH COMMISSION

GUARDIAN AD LITEM PROGRAM



REPORT TO THE  
1999 GENERAL ASSEMBLY  
OF NORTH CAROLINA

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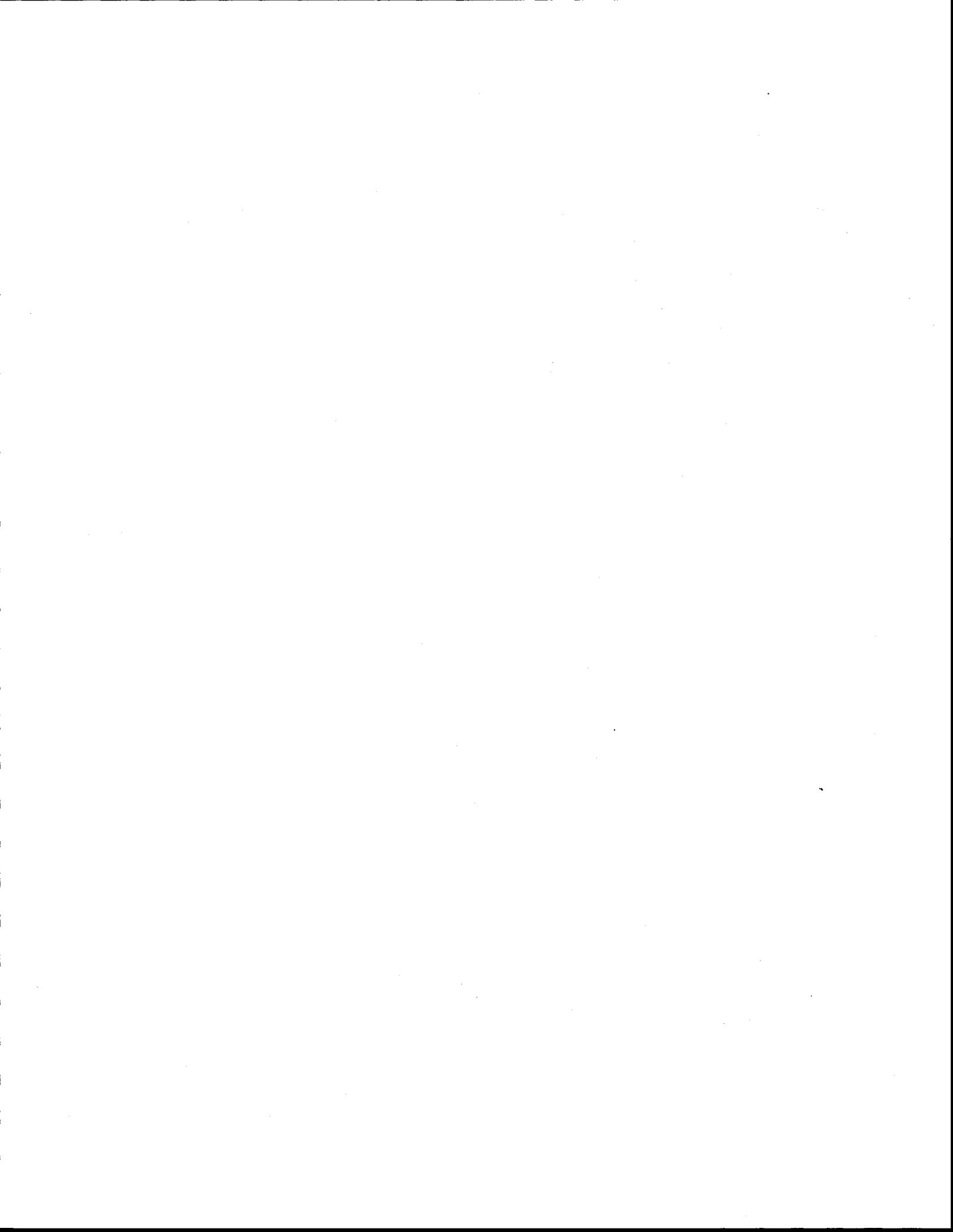
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STATE OF NORTH CAROLINA  
LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING  
RALEIGH, NC 27601



January 12, 1999

TO THE MEMBERS OF THE 1999 GENERAL ASSEMBLY (REGULAR SESSION 1999):

The Legislative Research Commission herewith submits to you for your consideration its final report on the GUARDIAN AD LITEM PROGRAM. The report was prepared by the Legislative Research Commission's Committee on GUARDIAN AD LITEM PROGRAM pursuant to G.S. 120-30.17(1).

Respectfully submitted,

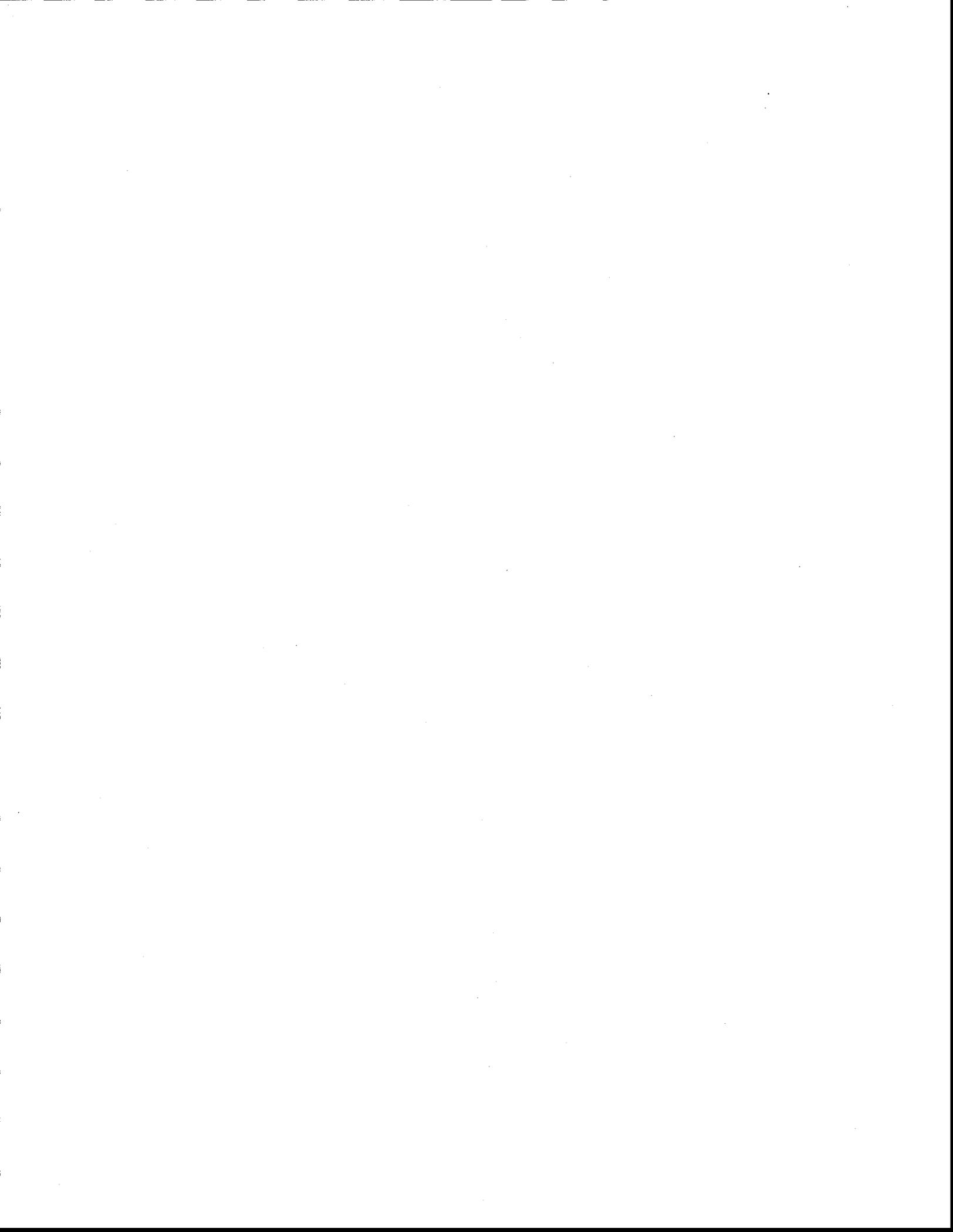
A handwritten signature in cursive script, appearing to read "Harold J. Brubaker", written over a horizontal line.

Harold J. Brubaker  
Speaker of the House

A handwritten signature in cursive script, appearing to read "Marc Basnight", written over a horizontal line.

Marc Basnight  
President Pro Tempore

Cochair  
Legislative Research Commission



1997-1999

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

President Pro Tempore of the Senate  
Marc Basnight, Cochair

Senator Austin M. Allran  
Senator Frank W. Ballance, Jr.  
Senator Jeanne H. Lucas  
Senator R. L. Martin  
Senator Ed N. Warren

Speaker of the House of Representatives  
Harold J. Brubaker, Cochair

Rep. Michael P. Decker, Sr.  
Rep. Jerry Dockham  
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Rep. Gregory J. Thompson

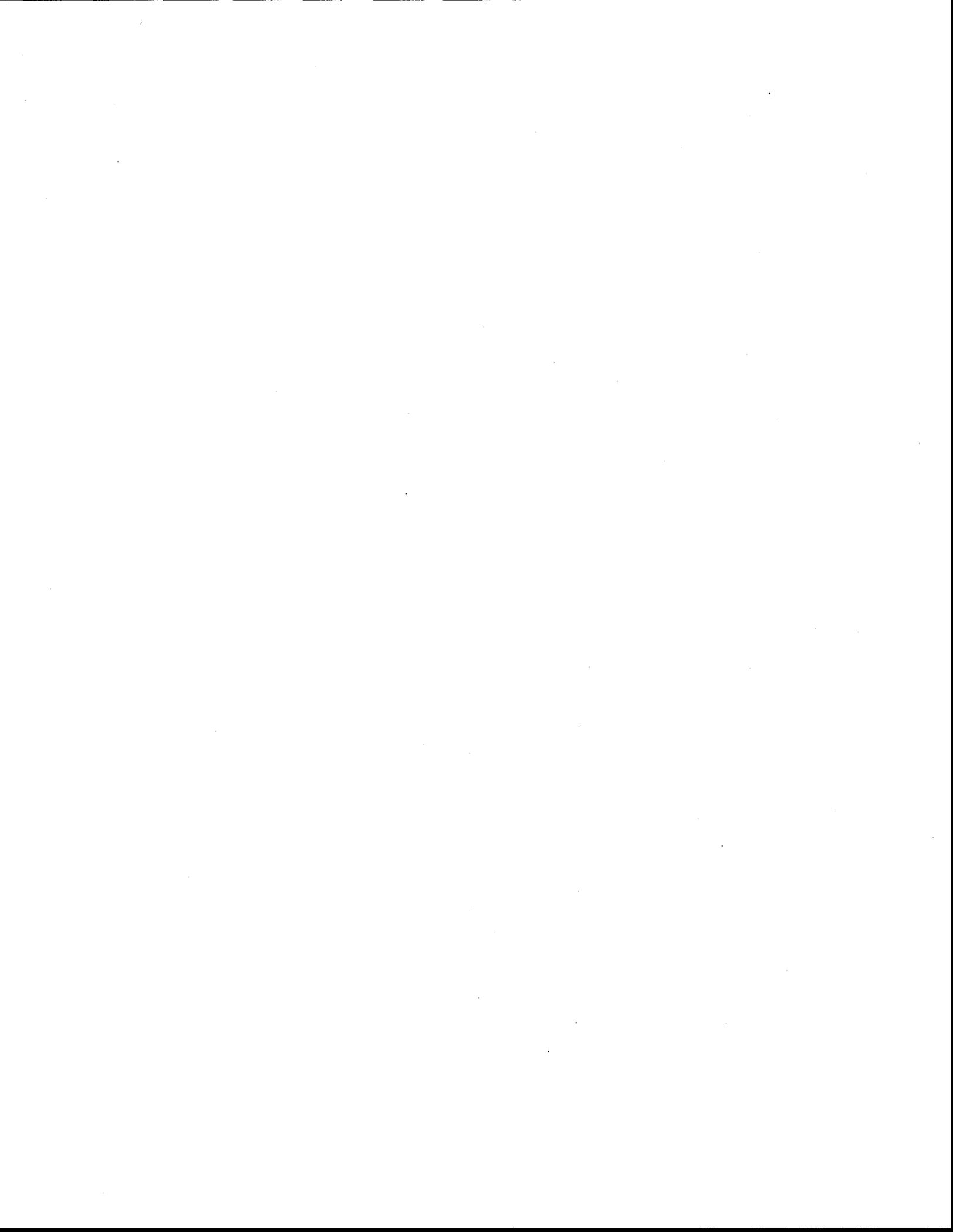


## PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general-purpose study group in the Legislative Branch of State Government. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission, prompted by actions during the 1997 Session and 1998 Session, has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of the Guardian Ad Litem Program was authorized by Section 2.1(8) of SL 1997-483. (**Appendix A.**) The Legislative Research Commission grouped this study in its **Courts Grouping** under the direction of Senator Frank Ballance. Senator Allen H. Wellons and Representative William S. Hiatt chaired the Committee. The full membership of the Committee is listed in **Appendix B** of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.



## COMMITTEE PROCEEDINGS

The LRC Guardian Ad Litem Study Committee met four times during 1998, two times prior to the 1998 Extra Session (January 28 and February 26), and two times after the 1997 General Assembly adjourned sine die (December 9 and December 28). The December 28 meeting was devoted to approving the Committee's final report.

The January and February meetings provided information to members on the Guardian Ad Litem Program at the administrative level and also on how the Program was serving children at the local level. At the January meeting Committee members heard from Ms. Ilene Nelson, Administrator of the GAL Program, and from Mr. Chris Marks, Deputy Director of Administrative Services of the Administrative Office of the Courts. Ms. Nelson gave an overview of the Program and provided data on organizational structure, volunteer services, attorney services, and data collection. Ms. Nelson concluded her presentation by citing the strengths of the GAL Program being primarily in a very committed professional and support staff and attorneys who give beyond what they are paid for, and in very energetic and committed volunteers. Ms. Nelson also reported the Program weaknesses as being insufficient number of volunteers, staff supervisors, experienced attorneys, and technological equipment. Mr. Marks provided budgetary information on funds appropriated for indigent defense and public defenders, and on the GAL budget for administration and attorney fees.

The February meeting focused on how the foster care and court systems serve children who have been determined to be abused, neglected, or dependent. The Committee heard from two district court judges, one of whom presented information on the Court Improvement Project being implemented in his district. The Committee also heard from an attorney for the Forsyth County Department of Social Services, an attorney in private practice who represented Orange county in abuse and neglect cases, an attorney with the Guardian Ad Litem program in Johnston County, and an attorney in private practice in Wake county who represents parents in abuse and neglect cases. The Committee also heard from Janet Mason, a faculty member at the Institute of Government. Ms. Mason provided information on the role of attorneys, in general, in abuse and neglect cases.

Because of the 1998 Extra Session and the unusually lengthy short session, the Committee did not meet again until December 9, 1998. At that meeting Ms. Nelson provided information on the anticipated impact of legislation enacted to comply with the federal Adoption and Safe Families Act, and also on funds appropriated for the GAL Program for the 1998-99 fiscal year. The Committee then decided on recommendations to be included in its final report to the Legislative Research Commission. The Committee held its final meeting on December 28, 1998 for the purpose of reviewing and approving the final report.

### **FINDINGS AND RECOMMENDATIONS**

**FINDING ONE:** The 1995 General Assembly and the 1997 General Assembly authorized the study of the Guardian Ad Litem Program in part to ascertain the necessity for and effectiveness of GAL services, including whether services are duplicative of other services provided by State and local government agencies and private organizations. The 1995 study included a survey of judicial officials, county officials, local DSS office personnel, and private attorneys to ascertain a statewide perception of the need for and quality of GAL services. Specific results of the survey can be found in the LRC Guardian Ad Litem final report to the 1997 General Assembly, dated January 15, 1997. The 1995 and 1997 study committees found generally, among other things, that representation of children by experienced GAL attorneys is essential in ensuring that the best interests of these children are fully considered by the court. Both of the study committees also found that reductions in State funding for GAL attorney services have seriously undermined the Program's ability to retain experienced attorneys to represent GAL children. The Committee finds significant disparity in compensation between GAL attorneys and attorneys who provide representation to other parties in the case. Moreover, experienced attorneys often leave the Program because they cannot afford to devote the time necessary to effectively represent GAL children for the rate of pay provided under the Program.

**RECOMMENDATION ONE:** The method of payment for GAL attorney services should be changed such that GAL attorneys bill directly for their services and the billings are reviewed by the court and paid from the State's indigent defense fund in the

same manner as other attorneys appointed by the court to serve indigent clients. The GAL Program should continue to have responsibility for providing attorneys to represent children served by the GAL Program.

**FINDING TWO:** The 1997 General Assembly enacted legislation (H1720) to comply with the federal Adoption and Safe Families Act, PL 105-89, pertaining to the protection of abuse, neglected and dependent children. The Committee finds that the changes in legal proceedings required by H1720 and federal law will significantly impact the Guardian Ad Litem Program's ability to continue to provide the quality and quantity of services that these children need and that State policy and law require. The Committee also finds that the changes required under this legislation are necessary and will ultimately benefit not only children and their families, but also the State as a whole in ensuring that children reside in permanent and safe home environments, and in effectively allocating limited resources for human services.

**RECOMMENDATION TWO:** The General Assembly should provide full funding of the budget request of the Guardian Ad Litem Program in order to meet the staffing, technological, training, and legal representation needs for effectively and efficiently providing GAL services to abused, neglected, and dependent children.

**FINDING THREE:** As stated in finding number two of this report, the 1995 and 1997 General Assemblies have conducted studies of the GAL Program. The 1997 study committee finds that information obtained from these studies has been valuable in ascertaining the efficiency and effectiveness of the Program and its services to children, and that further study of Program organization and administration is not necessary at this time. The Committee also finds, however, that study and evaluation of the needs of abused, neglected, and dependent children should be ongoing to ensure that the needs are being met to the maximum extent possible within State resources.

**RECOMMENDATION THREE:** The General Assembly should include in studies authorized under SL 1998-229 (H1720) and SL 1998-202 (S1260), as well as other relevant studies authorized by the 1999 General Assembly, review of the extent to

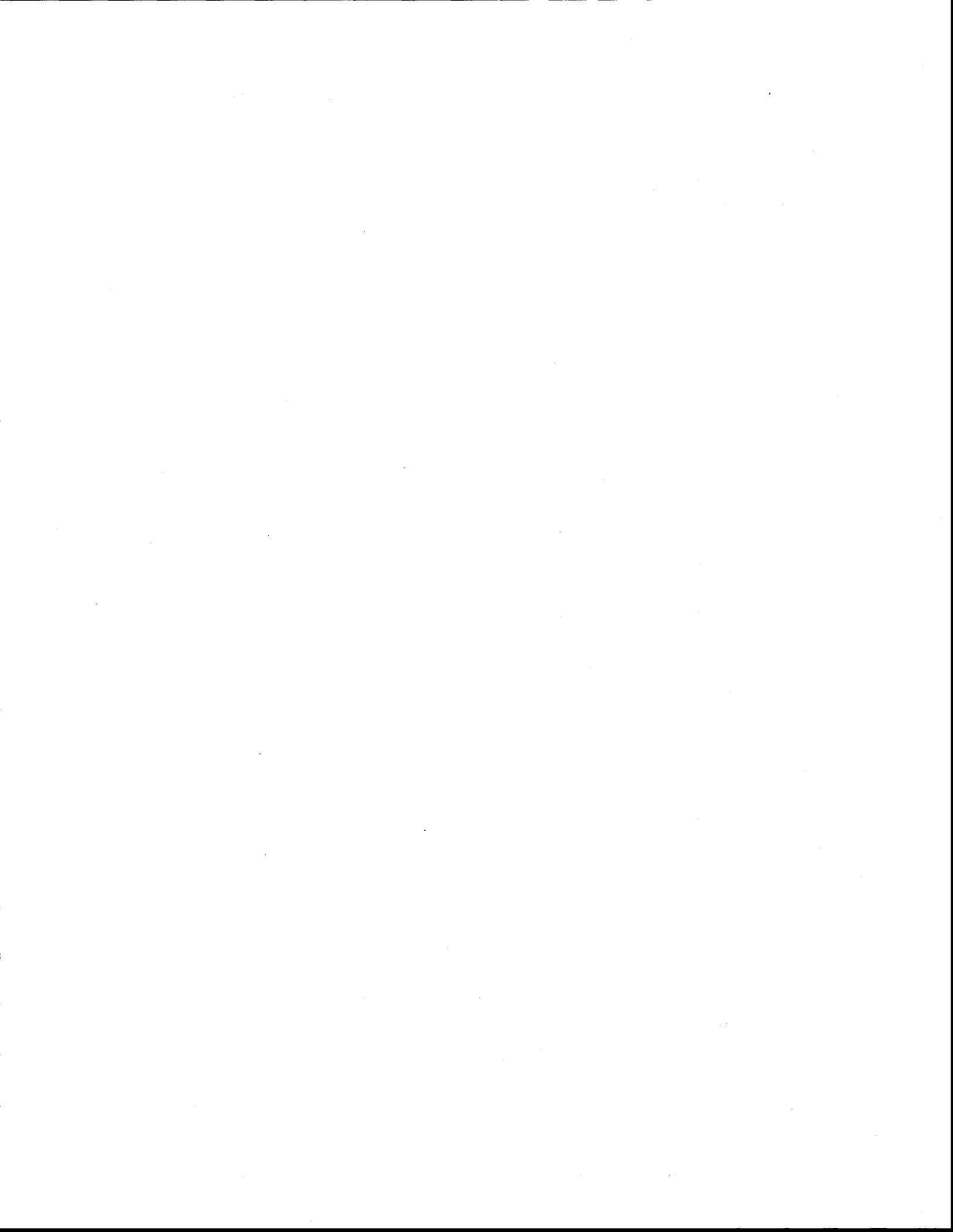
which current law and government agency practices are effectively meeting the critical needs of abused, neglected, and dependent children.

**FINDING FOUR:** Senate Bill 1260, Juvenile Justice Reform, enacted by the 1997 General Assembly, established an Office of Juvenile Justice and directed the Governor to report to the Joint Legislative Commission on Governmental Operations by May 1, 1999 on the organizational structure and staffing of this office.

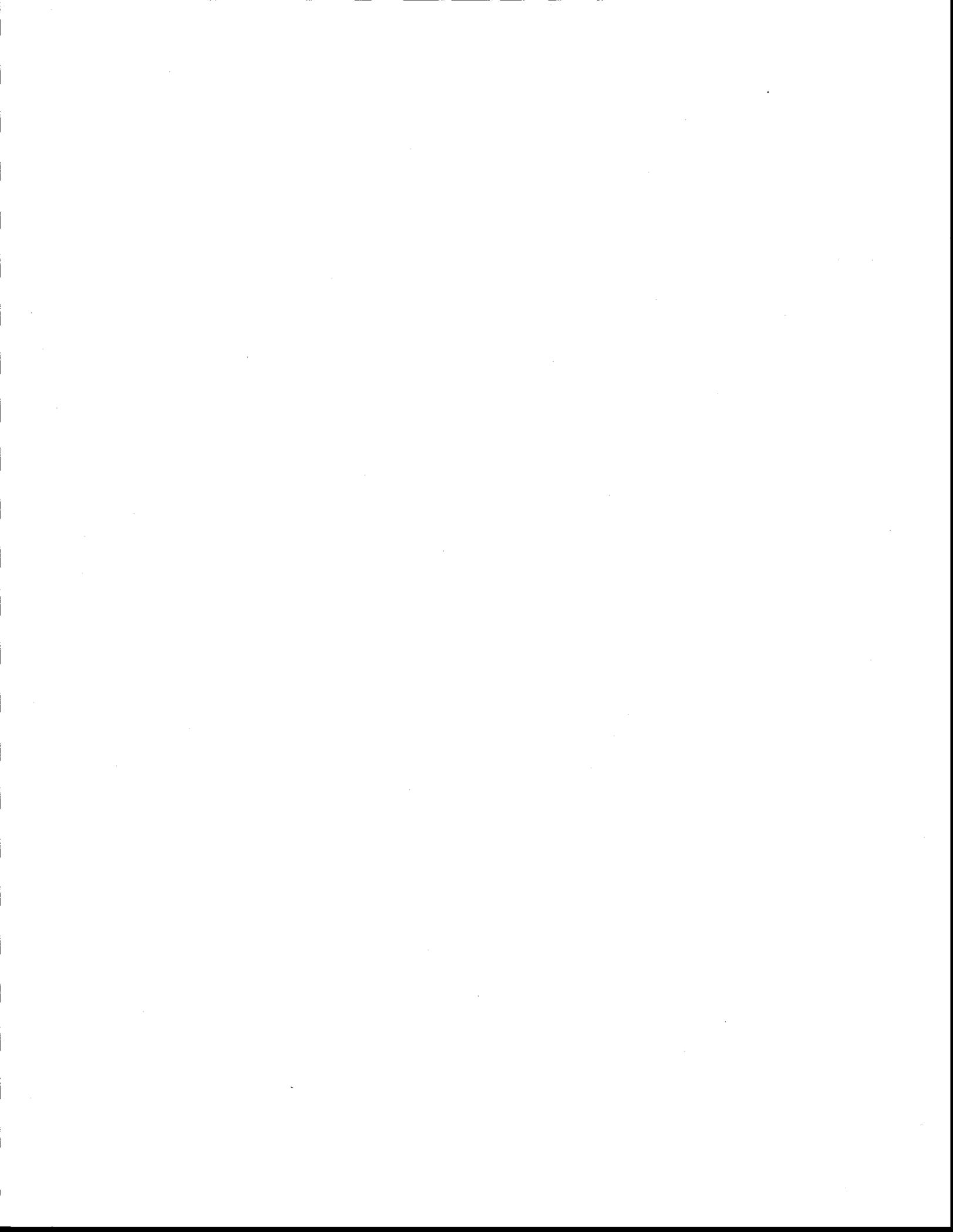
**RECOMMENDATION FOUR:** In considering the Governor's recommendations on the structure and staffing of the Office of Juvenile Justice, the General Assembly should consider whether the Guardian Ad Litem Program should be transferred from the Administrative Office of the Courts to the Office of Juvenile Justice. In the event such a transfer is approved, the Committee further recommends that the name of the Office of Juvenile Justice be modified to reflect its focus not only on children who become involved in the juvenile justice system, but also children who need services because they have been abused or neglected, or are dependent.

**FINDING FIVE:** Prior to 1995, G.S. 7A-586(a) pertaining to appointment of a GAL attorney provided that "In every case where a nonattorney is appointed as a guardian ad litem, an attorney shall be appointed in the case in order to assure protection of the child's legal rights within the proceeding." In the 1995 budget bill this language was amended to provide that "In every case where a nonattorney is appointed as a guardian ad litem, an attorney shall be appointed in the case in order to assure protection of the child's legal rights *through the dispositional phase of the proceedings, and after disposition when necessary to further the best interests of the child.*" (Emphasis added). Section 21.13 of Chapter 324 of the 1995 Session Laws. Thus, representation of the child ends at the dispositional phase unless the judge specifically finds that continued representation is necessary. The Committee finds it is essential for the full and effective protection of the legal rights and best interests of children represented by the GAL Program to have legal representation not just through the dispositional phase but throughout the proceeding.

**RECOMMENDATION FIVE:** The General Assembly should enact the legislation found in Appendix E of this report amending G.S. 7A-586 to require attorney representation within the full proceedings of the case.



## **APPENDICES**



GENERAL ASSEMBLY OF NORTH CAROLINA  
1997 SESSION

SESSION LAW 1997-483  
SENATE BILL 32

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE VARIOUS COMMISSIONS, TO CONTINUE A COUNCIL, TO DIRECT STATE AGENCIES AND LEGISLATIVE OVERSIGHT COMMITTEES AND COMMISSIONS TO STUDY SPECIFIED ISSUES, AND TO IMPOSE A MORATORIUM ON SERVICE CORPORATION CONVERSIONS.

The General Assembly of North Carolina enacts:

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1997".

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Section 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 1997 Regular Session of the 1997 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study.

- (1) Bingo regulation (Weinstein; H.B. 951 - Baker).
- (2) Building code issues (S.B. 820 - Shaw of Cumberland; H.B. 47 - Davis); State construction (Ives); Downtown revitalization (H.B. 50 - Davis, S. B. 823 - Shaw of Cumberland); Housing Trust Fund allocations to downtown areas.
- (3) Coastal beach movement issues including, but not limited to:
  - a. Beach renourishment; the value cost, level of need, return on investment, and eligible participants.
  - b. Storm hazard mitigation (S.B. 432 - Odom and Horton).
- (4) Dispute Resolution Commission revision and expansion of authority (S.B. 1021 - Rand).
- (5) Domestic Violence (S.B. 753 - Lucas; H.B. 909 - Bowie).
- (6) Financial institutions including, but not limited to:
  - a. Branch banking law in North Carolina (S.B. 901 - Warren).
  - b. Consumer finance industry issues (S.B. 777 - Lee; H.B. 356 - Tallent).
  - c. Robbery witness protection (S.B. 384 - Dalton).
  - d. Allowing mortgage bankers to make loans and charge related fees (H.B. 1125 - Miner)
- (7) Future of the courts (Ballance; H.B. 1192 - Daughtry, Neely, and Baddour).

- (8) Guardian Ad Litem Program (S.J.R. 24 - Ballance; H.J.R. 107 - Hiatt).
- (9) Health care information privacy issues (S.B. 1005 - Gullely; H.B. 925 - Reynolds).
- (10) Lien issues including, but not limited to:
  - a. Laws related to liens due medical providers for medical services provided and to the assignment of proceeds (S.B. 156 - Hartsell; H.B. 199 - Culpepper).
  - b. Allowing statutory liens for fees owed to commercial real estate brokers (S.B. 923 - Odom).
- (11) Lobbying and conflict issues including, but not limited to:
  - a. Lobbyists waiting period for former legislators, former members of the Council of State, or other officers or employees of State government (S.B. 3 - Jenkins).
  - b. No State agency contract lobbying (Section 7.17, 5th Edition of S.B. 352).
  - c. No State funds for lobbying (Section 11.73, 5th Edition of S.B. 352).
  - d. Governor's Highway Safety Program is not to hire paid lobbyists (Section 29.29, 5th Edition of S.B. 352).
  - e. Conflicts of interest; issues for public officials (H.B. 1165 - Bowie)
- (12) Municipalities annexation and incorporation issues including, but not limited to:
  - a. Incorporation process and requirements for new municipalities (S.J.R. 61 - Hartsell; H.B. 93 - Ellis; H.J.R. 163 - Cole).
  - b. Annexation, incorporation, and land-use planning (S.B. 903 - Hartsell).
- (13) Coastal insurance issues (H.B. 452 - Redwine; H.B. 1119 - McComas).
- (14) Division of 30th District Court District and 30th Prosecutorial District (Section 15.11A, 5th edition, S.B. 352 - Carpenter)
- (15) Cemetery Commission and Cemetery regulation (H.B. 98 - Hill)
- (16) Consumer Protection (H.J.R. 25 - Thompson; S.J.R. 28 - Jordon)
- (17) Cooperative Extension Service (H.B. 1018 - Smith)
- (18) Health care issues (H.B. 1207 - Bowie; H.B. 1204- Brawley; H.B. 985 - Insko)
- (19) Rail service to State Ports (H.B. 257 - McComas)
- (20) DHR Schools (H.B. 1002 - Arnold)
- (21) Watercraft safety (H.B. 513 - Preston)
- (22) Storm hazard mitigation (H.B. 572 - Mitchell; S.B. 432 - Odom) and wastewater systems permits (H.B. 1021 - Hardy)
- (23) Community colleges (Rayfield; Shubert)
- (24) Information technology (H.B. 290, 925, 970, 973, 1034, 1047)
- (25) Victims rights (H.B. 665 - Eddins)
- (26) Dental hygienist regulation, supervision, and scope of practice (Gardner)
- (27) National Guard buy-in to State Health Plan (S.B. 434 - Forrester)
- (28) Small business development (H.B. 1177 - Shubert)
- (29) Venture Capital and business financing (S.B. 956 - Hoyle and Kerr)
- (30) Adoption registry (H.B. 1206 - Allred)

**LEGISLATIVE RESEARCH COMMISSION  
GUARDIAN AD LITEM PROGRAM COMMITTEE  
1997-1999**

**Pro Tem's Appointments**

Sen. Allen H. Wellons, Cochair  
PO Box 1046  
Smithfield, NC 27577  
(919) 934-0553

Ms. Joanne S. Cranke  
Guardian Ad Litem - Gaston County  
151 South Street  
Gastonia, NC 28052

Mr. Al Deitch  
Youth Advocacy and Involvement Office  
217 West Jones Street  
Raleigh, NC 27603

Mrs. Claudia Kadis  
101 Cashwell Drive  
Goldsboro, NC 27534

Mr. Robert Loddengaard  
3801 Riders Trail  
Hillsborough, NC 27278

Sen. Robert L. Martin  
PO Box 387  
Bethel, NC 27812  
(919) 825-4361

Mr. Dean Westmoreland  
949 Dixon School Road  
Grover, NC 28073

The Honorable Archie Williams  
Route 2, Box 119A  
Macon, NC 27551

**Speaker's Appointments**

Rep. William S. Hiatt, Cochair  
3923 Westfield Road  
Mount Airy, NC 27030  
(910) 789-2095

Rep. Martha B. Alexander  
1625 Meyers Park Drive  
Charlotte, NC 28207  
(704) 365-1003

Rep. Charles Beall  
501 Oak Ridge Drive  
Clyde, NC 28721  
(704) 627-2423

Rep. Verla C. Insko  
610 Surry Road  
Chapel Hill, NC 27514  
(919) 929-6115

Ms. Susan Mills  
2220 Second Street, NE  
Hickory, NC 28601

Dr. Stephen Shaffer  
1 North Park Square  
Asheville, NC 28801

Rep. Gregory J. Thompson  
PO Box 574  
Spruce Pine, NC 28777  
(704) 765-1998

Rep. Joe P. Tolson  
PO Drawer 85  
Pinetops, NC 27864  
(919) 827-2266

**LRC Member**

Sen. Frank W. Ballance, Jr.  
PO Box 616  
Warrenton, NC 27589  
(919) 257-3955

**Staff:**

Gann Watson, Committee Counsel  
Bill Drafting Division  
(919) 733-6660

**Clerk:**

Dee Hodge  
(919) 733-5955

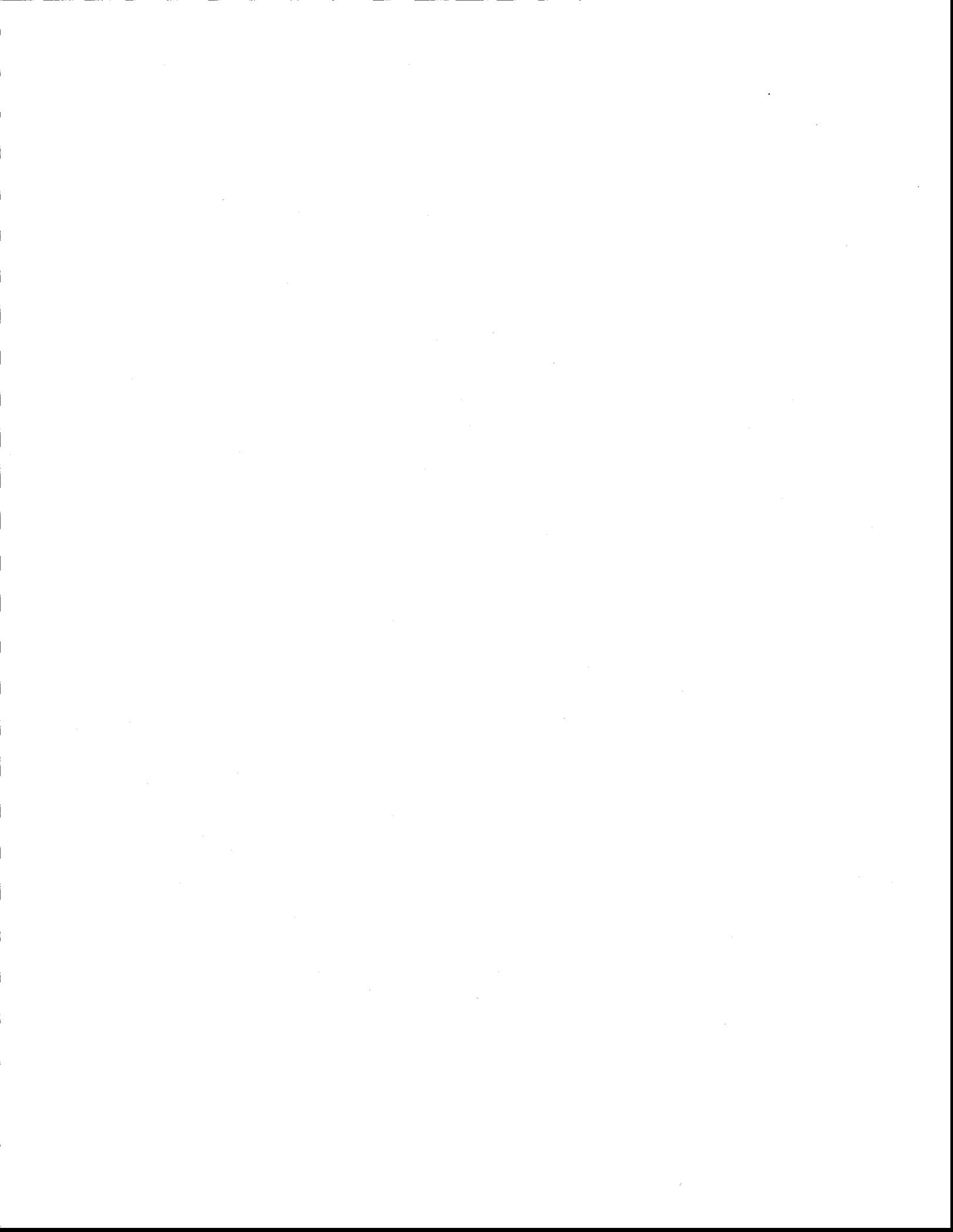
**GUARDIAN AD LITEM PROGRAM DATA REVIEW  
1996-1997**

**LEGISLATIVE RESEARCH COMMISSION SUBCOMMITTEE  
ON THE GUARDIAN AD LITEM PROGRAM  
OF THE ADMINISTRATIVE OFFICE OF THE COURTS**

**PRESENTED BY**

**ILENE NELSON, ADMINISTRATOR**

**February 26, 1998**



District/ County	CHILDREN					VOLUNTEERS			PERSONNEL STAFF  Personnel Assigned by District	ATTORNEY		
	Children	New Petitions	# of Adjudications	# of TPR's	Total Hearings	Active During 96-97	Newly Sworn 96-97	Resigned 96-97		Total by District	Costs	Cost per Child
<b>1</b>												
Camden	4	1	1	0	8	2	0	0	1 - 100% District Administrator 1 - 50% Program Supervisor 1 - 50% Support Staff	4	\$17,900	\$135
Chowan	12	0	0	0	18	4	1	1				
Currituck	30	17	12	0	86	8	1	2				
Dare	49	17	9	2	111	27	7	3				
Gates	1	0	0	0	4	1	0	0				
Pasquotank	21	2	4	2	56	22	4	4				
Perquimans	16	4	2	2	44	12	1	3				
<b>Totals</b>	<b>133</b>	<b>41</b>	<b>28</b>	<b>6</b>	<b>327</b>	<b>76</b>	<b>14</b>	<b>13</b>				
<b>2</b>												
Beaufort	105	43	27	8	307	30	3	2	1 - 100% District Administrator 1 - 75% Program Supervisor	3	\$15,120	\$83
Hyde	18	6	5	1	34	2	1	0				
Martin	26	12	5	2	58	10	2	6				
Tyrell	13	3	4	0	33	1	0	0				
Washington	20	12	10	0	82	5	1	2				
<b>Totals</b>	<b>182</b>	<b>76</b>	<b>51</b>	<b>11</b>	<b>514</b>	<b>48</b>	<b>7</b>	<b>10</b>				
<b>3A</b>												
Pitt	220	52	60	15	891	73	17	6	1 - 75% District Administrator 1 - 75% Program Supervisor	1	\$19,700	\$90
<b>Totals</b>	<b>220</b>	<b>52</b>	<b>60</b>	<b>15</b>	<b>891</b>	<b>73</b>	<b>17</b>	<b>6</b>				
<b>3B</b>												
Carteret	124	64	46	0	394	26	4	5	1 - 100% District Administrator 1 - 75% Support Staff	4	\$16,030	\$73
Craven	77	28	32	3	339	45	13	9				
Pamlico	20	2	2	1	48	5	1	1				
<b>Totals</b>	<b>221</b>	<b>94</b>	<b>80</b>	<b>4</b>	<b>781</b>	<b>76</b>	<b>18</b>	<b>15</b>				
<b>4</b>												
Duplin	48	21	18	1	168	10	2	2	1 - 100% District Administrator 1 - 100% Program Supervisor 1 - 50% Program Supervisor 1 - 100% Support Staff	4	\$23,040	\$56
Jones	8	6	6	0	22	1	0	0				
Onslow	288	80	75	10	691	53	12	17				
Sampson	64	36	30	1	211	8	1	1				
<b>Totals</b>	<b>408</b>	<b>143</b>	<b>129</b>	<b>12</b>	<b>1,092</b>	<b>72</b>	<b>15</b>	<b>20</b>				

C - 2

District/ County	CHILDREN					VOLUNTEERS			PERSONNEL STAFF	ATTORNEY		
	Children	New Petitions	# of Adjudications	# of TPR's	Total Hearings	Active During 96-97	Newly Sworn 96-97	Resigned 96-97		Personnel Assigned by District	Total by District	Costs
<b>5</b>												
New Hanover	591	148	137	8	1,135	77	27	9	1 - 100% District Administrator	2	\$35,040	\$51
Pender	92	28	23	6	210	17	4	4	1 - 100% Program Supervisor			
<b>Totals</b>	<b>683</b>	<b>176</b>	<b>160</b>	<b>14</b>	<b>1,345</b>	<b>94</b>	<b>31</b>	<b>13</b>	1 - 75% Program Supervisor 1 - 50% Support Staff			
<b>6A/B</b>												
Bertie	43	17	21	0	166	2	1	0	1 - 100% District Administrator	2	\$16,680	\$72
Halifax	111	37	29	13	506	7	0	0	1 - 50% Support Staff			
Hertford	38	9	7	0	146	5	2	0				
Northhampton	40	8	6	1	156	8	0	1				
<b>Totals</b>	<b>232</b>	<b>71</b>	<b>63</b>	<b>14</b>	<b>974</b>	<b>22</b>	<b>3</b>	<b>1</b>				
<b>7</b>												
Edgecombe	205	48	45	8	640	70	12	17	1 - 100% District Administrator	4	\$32,160	\$60
Nash	140	35	24	16	384	Included in Edgecombe Co.			2 - 100% Program Supervisor			
Wilson	194	79	55	24	410	55	21	4				
<b>Totals</b>	<b>539</b>	<b>162</b>	<b>124</b>	<b>48</b>	<b>1,434</b>	<b>125</b>	<b>33</b>	<b>21</b>				
<b>8</b>												
Greene	16	6	6	1	65	3	0	0	1 - 75% District Administrator	3	\$25,505	\$67
Lenoir	137	59	64	0	534	15	1	3	1 - 100% Program Supervisor			
Wayne	225	69	67	16	980	59	8	6	1 - 75% Support Staff			
<b>Totals</b>	<b>378</b>	<b>134</b>	<b>137</b>	<b>17</b>	<b>1,579</b>	<b>77</b>	<b>9</b>	<b>9</b>				
<b>9</b>												
Franklin	87	29	39	5	431	27	6	5	1 - 100% District Administrator	2	\$20,040	\$70
Granville	27	6	7	5	106	16	4	3	1 - 75% Program Supervisor			
Vance	135	46	50	15	790	36	7	8				
Warren	39	9	7	4	138	8	1	1				
<b>Totals</b>	<b>288</b>	<b>90</b>	<b>103</b>	<b>29</b>	<b>1,465</b>	<b>87</b>	<b>18</b>	<b>17</b>				
<b>10</b>												
Wake	606	160	152	45	1,420	209	46	49	1 - 100% District Administrator	1	\$34,200	\$56
<b>Totals</b>	<b>606</b>	<b>160</b>	<b>152</b>	<b>45</b>	<b>1,420</b>	<b>209</b>	<b>46</b>	<b>49</b>	1 - 100% Program Supervisor 1 - 75% Program Supervisor			

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District/ County	CHILDREN					VOLUNTEERS			Personnel Assigned by District	ATTORNEY		
	Children	New Petitions	# of Adjudications	# of TPR's	Total Hearings	Active During 96-97	Newly Sworn 96-97	Resigned 96-97		Total by District	Costs	Cost per Child
<b>11</b>												
Harnett	139	53	45	8	394	31	7	9	1 - 100% District Administrator 1 - 75% Program Supervisor	3	\$29,040	\$80
Johnston	172	82	60	5	471	25	8	8				
Lee	53	16	12	10	160	14	1	3				
<b>Totals</b>	<b>364</b>	<b>151</b>	<b>117</b>	<b>23</b>	<b>1,025</b>	<b>70</b>	<b>16</b>	<b>20</b>				
<b>12</b>												
Cumberland	811	330	222	26	3,138	168	43	37	1 - 100% District Administrator 2 - 100% Program Supervisor 1 - 100% Support Staff	1	\$43,560	\$54
<b>Totals</b>	<b>811</b>	<b>330</b>	<b>222</b>	<b>26</b>	<b>3,138</b>	<b>168</b>	<b>43</b>	<b>37</b>				
<b>13</b>												
Bladen	83	25	12	0	198	13	0	0	1 - 100% District Administrator 1 - 50% Program Supervisor	3	\$19,440	\$60
Brunswick	116	49	34	15	268	17	2	2				
Columbus	123	31	35	0	400	15	0	0				
<b>Totals</b>	<b>322</b>	<b>105</b>	<b>81</b>	<b>15</b>	<b>866</b>	<b>45</b>	<b>2</b>	<b>2</b>				
<b>14</b>												
Durham	660	247	254	50	2,561	179	27	41	1 - 100% District Administrator 2 - 75% Program Supervisor 1 - 100% Support Staff	1	\$46,440	\$70
<b>Totals</b>	<b>660</b>	<b>247</b>	<b>254</b>	<b>50</b>	<b>2,561</b>	<b>179</b>	<b>27</b>	<b>41</b>				
<b>15A</b>												
Alamance	172	46	39	16	549	72	19	19	1 - 100% District Administrator 1 - 50% Support Staff	1	\$15,740	\$92
<b>Totals</b>	<b>172</b>	<b>46</b>	<b>39</b>	<b>16</b>	<b>549</b>	<b>72</b>	<b>19</b>	<b>19</b>				
<b>15B</b>												
Chatham	103	30	35	13	300	Included in Orange Co.			1 - 100% District Administrator 1 - 75% Program Supervisor	2	\$20,621	\$87
Orange	133	47	41	10	340	84	33	25				
<b>Totals</b>	<b>236</b>	<b>77</b>	<b>76</b>	<b>23</b>	<b>640</b>	<b>84</b>	<b>33</b>	<b>25</b>				
<b>16A</b>												
Hoke	56	18	26	0	227	11	0	0	1 - 100% District Administrator 1 - 50% Support Staff	1	\$11,160	\$81
Scotland	81	37	44	4	265	18	2	0				
<b>Totals</b>	<b>137</b>	<b>55</b>	<b>70</b>	<b>4</b>	<b>492</b>	<b>29</b>	<b>2</b>	<b>0</b>				

District/ County	CHILDREN					VOLUNTEERS			PERSONNEL STAFF  Personnel Assigned by District	ATTORNEY		
	Children	New Petitions	# of Adjudications	# of TPR's	Total Hearings	Active During 96-97	Newly Sworn 96-97	Resigned 96-97		Total by District	Costs	Cost per Child
<b>16B</b>												
Robeson	421	171	187	4	1,543	57	3	5	1 - 100% District Administrator	1	\$27,000	\$64
<b>Totals</b>	<b>421</b>	<b>171</b>	<b>187</b>	<b>4</b>	<b>1,543</b>	<b>57</b>	<b>3</b>	<b>5</b>	1 - 100% Program Supervisor			
<b>9A/17A</b>												
Caswell	50	12	12	2	123	8	2	2	1 - 100% District Administrator	4	\$19,100	\$66
Person	114	18	32	2	241	20	0	8	1 - 75% Program Supervisor			
Rockingham	126	32	35	8	219	28	12	4				
<b>Totals</b>	<b>290</b>	<b>62</b>	<b>79</b>	<b>12</b>	<b>583</b>	<b>56</b>	<b>14</b>	<b>14</b>				
<b>17B</b>												
Stokes	58	33	30	0	202	9	3	2	1 - 100% District Administrator	1	\$15,748	\$104
Surry	94	36	26	10	214	28	4	2	1 - 50% Program Supervisor			
<b>Totals</b>	<b>152</b>	<b>69</b>	<b>56</b>	<b>10</b>	<b>416</b>	<b>37</b>	<b>7</b>	<b>4</b>	(Filled with a Secretary)			
<b>18</b>												
Guilford	1,028	301	269	29	3,311	256	72	91	1 - 100% District Administrator	2	\$45,600	\$44
<b>Totals</b>	<b>1,028</b>	<b>301</b>	<b>269</b>	<b>29</b>	<b>3,311</b>	<b>256</b>	<b>72</b>	<b>91</b>	1 - 100% Program Supervisor			
									3 - 75% Program Supervisor			
									1 - 75% Support Staff			
<b>19A/C</b>												
Cabarrus	116	49	55	9	398	25	6	9	1 - 100% District Administrator	2	\$21,760	\$65
Rowan	218	75	69	7	432	55	9	13	1 - 50% Program Supervisor			
<b>Totals</b>	<b>334</b>	<b>124</b>	<b>124</b>	<b>16</b>	<b>830</b>	<b>80</b>	<b>15</b>	<b>22</b>				
<b>19B</b>												
Montgomery	24	18	14	0	61	6	1	0	1 - 100% District Administrator	3	\$22,641	\$56
Moore	118	49	60	3	361	31	10	3	1 - 75% Program Supervisor			
Randolph	259	103	77	2	935	72	14	11	1 - 50% Program Supervisor			
<b>Totals</b>	<b>401</b>	<b>170</b>	<b>151</b>	<b>5</b>	<b>1,357</b>	<b>109</b>	<b>25</b>	<b>14</b>	(Filled with a Secretary)			

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District/ County	CHILDREN					VOLUNTEERS			PERSONNEL STAFF  Personnel Assigned by District	ATTORNEY		
	Children	New Petitions	# of Adjudications	# of TPR's	Total Hearings	Active During 96-97	Newly Sworn 96-97	Resigned 96-97		Total by District	Costs	Cost per Child
<b>20</b>												
Anson	42	18	18	1	154	13	0	4	1 - 100% District Administrator 1 - 100% Program Supervisor 1 - 75% Program Supervisor	4	\$39,744	\$77
Richmond	209	71	100	33	940	29	5	4				
Stanly	44	13	13	0	154	23	8	4				
Union	222	52	56	11	501	38	3	8				
<b>Totals</b>	<b>517</b>	<b>154</b>	<b>187</b>	<b>45</b>	<b>1,749</b>	<b>103</b>	<b>16</b>	<b>20</b>				
<b>21</b>												
Forsyth	665	203	196	37	1,595	178	49	23	1 - 100% District Administrator 1 - 100% Program Supervisor 1 - 75% Program Supervisor 1 - 50% Support Staff	2	\$35,400	\$53
<b>Totals</b>	<b>665</b>	<b>203</b>	<b>196</b>	<b>37</b>	<b>1,595</b>	<b>178</b>	<b>49</b>	<b>23</b>				
<b>22</b>												
Alexander	35	5	5	2	116	5	0	0	1 - 100% District Administrator 2 - 75% Program Supervisor 1 - 50% Support Staff	3	\$27,720	\$64
Davidson	252	156	124	15	848	12	3	4				
Davie	23	10	7	0	83	3	1	3				
Iredell	124	33	34	17	420	22	2	7				
<b>Totals</b>	<b>434</b>	<b>204</b>	<b>170</b>	<b>34</b>	<b>1,467</b>	<b>42</b>	<b>6</b>	<b>14</b>				
<b>23</b>												
Alleghany	19	9	9	0	57	2	0	0	1 - 100% District Administrator 1 - 50% Support Staff	4	\$17,880	\$72
Ashe	44	24	23	0	169	17	7	5				
Wilkes	129	71	53	4	400	51	12	10				
Yadkin	58	25	26	9	140	11	6	1				
<b>Totals</b>	<b>250</b>	<b>129</b>	<b>111</b>	<b>13</b>	<b>766</b>	<b>81</b>	<b>25</b>	<b>16</b>				
<b>24</b>												
Avery	9	3	3	0	28	4	0	0	1 - 100% District Administrator 1 - 50% Program Supervisor (Filled with a Secretary)	4	\$17,280	\$90
Madison	67	14	12	0	182	6	6	0				
Mitchell	20	4	1	4	63	4	0	1				
Watauga	44	11	18	3	264	15	2	2				
Yancey	52	29	24	2	189	4	0	0				
<b>Totals</b>	<b>192</b>	<b>61</b>	<b>58</b>	<b>9</b>	<b>726</b>	<b>33</b>	<b>8</b>	<b>3</b>				

District/ County	CHILDREN					VOLUNTEERS			PERSONNEL STAFF  Personnel Assigned by District	ATTORNEY		
	Children	New Petitions	# of Adjudications	# of TPR's	Total Hearings	Active During 96-97	Newly Sworn 96-97	Resigned 96-97		Total by District	Costs	Cost per Child
<b>25</b>												
Burke	148	63	53	4	436	28	3	1	1 - 100% District Administrator	3	\$32,932	\$63
Caldwell	137	54	38	12	398	20	1	4	2 - 75% Program Supervisor			
Catawba	239	70	69	33	822	49	4	11	1 - 100% Support Staff			
<b>Totals</b>	<b>524</b>	<b>187</b>	<b>160</b>	<b>49</b>	<b>1,656</b>	<b>97</b>	<b>8</b>	<b>16</b>				
<b>26</b>												
Mecklenburg	907	323	290	45	2,199	226	58	63	1 - 100% District Administrator	1	\$51,020	\$56
<b>Totals</b>	<b>907</b>	<b>323</b>	<b>290</b>	<b>45</b>	<b>2,199</b>	<b>226</b>	<b>58</b>	<b>63</b>	2 - 100% Program Supervisor			
									2 - 75% Program Supervisor			
									1 - 100% Support Staff			
<b>27A</b>												
Gaston	617	150	149	9	1,535	103	25	3	1 - 100% District Administrator	2	\$26,400	\$43
<b>Totals</b>	<b>617</b>	<b>150</b>	<b>149</b>	<b>9</b>	<b>1,535</b>	<b>103</b>	<b>25</b>	<b>3</b>	1 - 100% Program Supervisor			
									1 - 50% Program Supervisor			
									1 - 50% Support Staff			
<b>27B</b>												
Cleveland	183	59	45	20	477	28	3	4	1 - 100% District Administrator	3	\$20,080	\$74
Lincoln	89	31	27	13	311	15	3	2	1 - 50% Program Supervisor			
<b>Totals</b>	<b>272</b>	<b>90</b>	<b>72</b>	<b>33</b>	<b>788</b>	<b>43</b>	<b>6</b>	<b>6</b>				
<b>28</b>												
Buncombe	580	269	201	34	2,657	118	29	27	1 - 100% District Administrator	1	\$37,440	\$65
<b>Totals</b>	<b>580</b>	<b>269</b>	<b>201</b>	<b>34</b>	<b>2,657</b>	<b>118</b>	<b>29</b>	<b>27</b>	2 - 75% Program Supervisor			
<b>29</b>												
Henderson	121	49	42	6	396	22	8	2	1 - 100% District Administrator	3	\$28,200	\$74
McDowell	42	10	16	1	110	12	2	2	1 - 75% Program Supervisor			
Polk	21	10	7	2	51	2	2	0	1 - 50% Support Staff			
Rutherford	116	47	37	5	312	16	1	4				
Transylvania	82	18	14	5	154	11	1	1				
<b>Totals</b>	<b>382</b>	<b>134</b>	<b>116</b>	<b>19</b>	<b>1,023</b>	<b>63</b>	<b>14</b>	<b>9</b>				

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District/ County	CHILDREN					VOLUNTEERS			PERSONNEL STAFF  Personnel Assigned by District	ATTORNEY		
	Children	New Petitions	# of Adjudications	# of TPR's	Total Hearings	Active During 96-97	Newly Sworn 96-97	Resigned 96-97		Total by District	Costs	Cost per Child
30												
Cherokee	85	54	25	0	248	38	2	0	1 - 100% District Administrator 1 - 100% Program Supervisor 1 - 75% Program Supervisor 1 - 50% Support Staff	4	\$25,694	\$74
Clay	13	9	12	0	40	11	0	0				
Graham	28	14	9	0	120	19	2	0				
Haywood	136	46	25	3	476	69	3	2				
Jackson	26	3	4	2	80	25	4	9				
Macon	33	22	21	0	110	20	7	3				
Swain	27	13	8	0	78	23	2	3				
Totals	348	161	104	5	1,152	205	20	17				
Central Office									1 - 100% Administrator 1 - 100% Assistant Administrator 2 - 100% Regional Administrator 2 - 75% Regional Administrator 1 - 100% Administrative Secretary 1 - 100% Data Coordinator			
STATE TOTAL	14,906	5,172	4,626	780	46,446	3,493	753	685	114 STAFF IN 96 POSITIONS	89	\$953,055	\$64

\$955,640 Budget

**Program Services: Guardian ad Litem Program**  
**1999-2000 / 2000-2001 Budget Proposal**  
Prepared December 1998

**I. Status of the Guardian ad Litem Program**

The mission of the Guardian ad Litem Program is to provide trained independent advocates to represent and promote the best interests of abused, neglected or dependent children involved in the court, and to work toward a service system that ensures that these children are safe. North Carolina General Statute 7A-586 mandates that the court appoint a Guardian ad Litem for each abused and neglected child; it further gives the court discretion to appoint a Guardian ad Litem for a dependent child.

To provide Guardian ad Litem representation for these children, the program pairs an attorney with a trained community volunteer. The attorney represents the legal rights of the children. The volunteer independently investigates the facts of the case and presents those facts to the court. Further, volunteers are mandated to recommend services and interventions to the court that ensure the children's safety and move cases toward successful permanent resolutions as expeditiously as possible. If there are insufficient numbers of volunteers for each case, an attorney is appointed to the case without the assistance of a volunteer.

During 1997-98, there were 15,582 children who were represented by the Guardian ad Litem Program. Eighty percent of these children were represented by a volunteer paired with an attorney. However, because there were not enough volunteers to represent each child, the remaining twenty percent--nearly 3,000 children--were represented by an attorney alone. To the limited extent that their workloads would allow, staff provided assistance to attorneys working on cases without volunteers.

There were 92 attorneys and 3,488 volunteers at work in the Program during 1997-98. They attended 49,818 court hearings. The Program's 84 field staff (74.75 FTE)--36 district administrators and 48 program supervisors--screen, train, supervise and provide technical assistance to the volunteers and attorneys. These staff work to ensure equitable and accountable guardian ad litem services are provided throughout the state. These staff work in thirty-six district offices and eighteen satellite offices. Although 23 of the district offices have support staff, the remaining 13 district offices have none. Twenty of the support staff are part-time, and three are full-time.

The statutes creating the Guardian ad Litem Program were passed in 1983 and stood virtually unchanged until the 1995 General Assembly session. Where the volunteer had previously been appointed for the duration of the child's court case, a new 1995 provision created a limited two-year appointment which could be extended by the court upon a showing of good cause. In addition, the appointment of the attorney was limited to the period through the initial disposition of the case, and after disposition, when necessary to further the best interests of the child.

The most drastic legislative change in 1995 occurred as the General Assembly reduced the Program's personnel budget \$112,000 and attorney budget \$393,000. These budget cuts cost the Program three staff positions and reduced the rate at which attorneys could be paid. Two-thirds of the

Program's seasoned attorneys resigned because they could not afford to work at the reduced rate of pay and/or they felt the new restricted attorney appointment was not consistent with ethical legal practice. New attorneys hired now are much younger and less experienced than the attorneys who resigned, and because of their inexperience are unable to provide assistance to staff in the supervision of the volunteers' work on their cases.

While working to manage the reductions in its resources, the Program is also providing leadership in improving the court's and service delivery system's responses to cases of abuse, neglect, and dependency.

1. Court-ordered Day One Conferences and Pre-hearing Conferences--These conferences require all parties to meet to resolve as many case issues as possible outside the formal courtroom setting. Both of these conferences reduce the need for court time and facilitate earlier resolution of cases; however, as these conferences are added to a district's workload, they initially require extra time from GAL staff, volunteers, and attorneys.
2. One byproduct of the Guardian ad Litem Program redoubling its efforts to bring cases to successful closure more expeditiously has been an increase in court activity--from 38,945 hearings in 1995-96 to 46,436 in 1996-97, and to 49,818 in 1997-98. This represents a twenty-eight percent increase over three years when the total program caseload dropped by six percent from 15,887 to 14,901 between 1995-96 and 1996-97, and grew only four percent from 14,901 to 15,582 between 1996-97 and 1997-98.

The Guardian ad Litem Program is currently involved in four initiatives designed to strengthen its representation of abused, neglected, and dependent children. The initiatives are:

1. Statewide Volunteer Recruitment and Retention Campaign--Begun initially through Federal grant funds, this campaign continues to work with program staff and local communities to recruit enough volunteers to cover the cases of all children assigned to the program. During 1997-98 an additional eight hundred new volunteers were needed to meet this goal. The campaign also focuses on strategies to enhance retention of current program volunteers.
2. Creation and Adoption of an Accountable Uniform Volunteer Training Program--The Guardian ad Litem Program created and field tested its first uniform statewide training curriculum during 1996 and 1997. Adopted in January 1998, the 30-hour training program ensures that each volunteer can perform the tasks that are demanded of her/him as a Guardian ad Litem volunteer. Each new volunteer will participate in this initial training plus an additional 6 hours per year of in-service training.
3. Development and Implementation of a Guardian ad Litem Information System--The Program has developed a computer information system for the collection and reporting of program statistics. The information system (GALIS) allows staff to track children and the progress of their cases toward permanent, expedient, and safe resolutions. GALIS maintains hundreds of fields of data which will aid the Program in being a responsible steward of its resources. Currently, there are only thirty-eight computers for the Program's fifty-four offices and one hundred and six field staff members. Many of these computers are of an older slower vintage, making the installation and use of GALIS difficult at best. When GALIS is fully operational, the sixteen offices without computers will still be required to track case information by hand. As funds become available, existing computers must be

replaced and additional computers purchased so that the children we represent can fully benefit from this state of the art information system.

4. Criminal Records Checks on Volunteer Guardian ad Litem Applicants--Because of the vulnerability of the population of children which the Program serves, we must ensure that volunteer recruits are thoroughly screened, including performing a criminal records check on every citizen who submits an application to become a guardian ad litem volunteer. As resources become available, local Guardian ad Litem offices are being linked by computer network to the AOC computer system so that they may perform their own criminal checks.

## II. Program Products

The most important product of the Guardian ad Litem Program is the representation we provide for our child-clients. As part of the 1996 Legislative Study, District Court Judges were surveyed about the Program. With regard to whether the Guardian ad Litem Program was providing a valuable service to abused and neglected children, 96.2% judges said yes. The same percentage reported that the GAL Program was providing a valuable service to the court process. That number also stated that Guardian ad Litem services are needed to adequately serve the best interests of abused and neglected children. In the same survey, 62% of the judges stated that both an attorney and volunteer working together are necessary to protect the best interests of children.

The second most important product of the Program is its workforce of trained citizen volunteers who provide a service which saves the state money. Of the 3,488 volunteers in the Program during 1997-98, there were an average 2,714 serving on any given day. A recent study showed that North Carolina guardian ad litem volunteers donate approximately 250 hours to the Program per year. Multiplying 250 hours by the 2,714 volunteers equals 678,500 volunteer hours. It would take 326 full-time staff to replace these volunteer hours. The salary and benefits for these 326 staff would cost the state in excess of \$11,000,000.

Other products of the Program are:

- Written Volunteer Court Reports submitted to the judge at each hearing (49,818 hearings in 1997-98)
- *Children and the Law: A Casebook for Practice* which outlines relevant case law; distributed to all attorneys and staff
- *The Guardian Advocate*, the Program's newsletter which provides attorneys, staff and volunteers with legal updates and legislative changes impacting our work
- Statewide Volunteer Training Conferences held every eighteen months averaging 400-600 participants
- Attorney Practice Manual--being developed and scheduled for distribution in early 1999

## III. Program Outcomes

As the Guardian ad Litem mission states, our most important outcome is that judges, as the decision makers, have the best information possible as they enter orders that address what is in the best interests of the child-clients of the GAL Program. We strive to provide thorough, well researched

information to the court, and advocacy in the community and in court so that every child within the Program is in a legally secure permanent place within the shortest possible period of time.

As previously documented, judges perceive they are better able to perform their role as decision makers when they are provided information by the GAL attorney and volunteer working together. Without a volunteer, the court does not receive the complete information it needs for effective decision making. Especially since the 1995 budget cut, the attorney working alone on a case is not adequately compensated to do an exhaustive investigation. Nationally, our paired representation model is touted as the most effective model for representation.

While our goal is to return all children to their families of origin when this can be done safely, many children can never return home. Therefore, Termination of Parental Rights proceedings (TPRs) are critically important to the creation of alternative permanence. There are in excess of 3,000 children waiting for TPR proceedings to be initiated on their behalf so their cases can move forward and the children can be freed for adoption. Prior to 1995, the Guardian ad Litem Program initiated a large percentage of TPR proceedings. However, since the budget cut, there has been a sharp reduction in GAL-initiated TPR proceedings. In 1997-98, we initiated only nineteen of the 555 TPRs we participated in--due to the fact that the compensation attorneys receive for TPR filings is \$480, an insufficient payment for this very difficult and time-consuming legal process.

In order to meet the Program mission to work toward a service system that ensures abused, neglected and dependent children are safe, Guardian ad Litem staff, volunteers and attorneys participate on numerous community task forces, boards, committees and other forums where policy issues are discussed and resolved. Program representatives contribute to the creation of resolutions to difficult problems that have historically impeded children from achieving a safe home and receiving the services that they need. Examples of these groups are:

- Community Child Protection teams
- Community Child Fatality Prevention teams
- Child Fatality Task Force
- Families for Kids Steering Committee
- Covenant for North Carolina's Children
- North Carolina Bar Association Juvenile Justice and Children's Rights Section
- Court Improvement Project
- North Carolina Pediatric Society Committee on Child Abuse and Neglect

#### **IV. Justification for 1999-2001 Expansion Budget Request**

In 1998, the General Assembly passed HB 1720, better known as the Adoption and Safe Families Act. This Act, coupled with the passage of HB 896, makes major changes in the court process for the abused, neglected and dependent children who are within it. The most significant change is to double the number of review hearings that must take place in the first year. In addition, the law mandates a permanency planning hearing after the child has been in custody for 12 months and that a termination of parental rights proceeding must be initiated for every child who has been in care for 15 of the previous 22 months. In 1997-98 we participated in 49,818 hearings. This figure represents a 7% increase from

1996-97 and a 28% increase since 1995-96. While we cannot say that the number of hearings will double because some courts were already scheduling more frequent hearings than the law required, we can anticipate at least a 30% increase if we predict a conservative increase.

In 1997-98 we participated in 555 termination proceedings. The Division of Social Services tells us that there are more than 3,000 children who have been in care for 15 of the last 22 months and must have termination proceedings filed. The federal reimbursement provisions require that at least one-third of the open cases must be handled in the first six months. This means that either a termination petition must be filed for the first 1,000 children or a court decision made documenting why this is not the appropriate action. Therefore, we can anticipate that our work in this area should increase more than four-fold. These new requirements are good for the children we serve but will substantially stretch our already stretched system.

The Guardian ad Litem Program needs additional resources if it is to be able to accountably perform its mandated duties. The Program has as its top priority the recruitment of the additional 800 volunteers needed to cover its entire caseload. To support this primary goal, it is critical that each district office have support staff to perform the secretarial functions of the office so that district administrators and program supervisors can focus on recruiting, screening, training and supervising these additional volunteers. (Thirteen field offices have no support staff.) It is also important that regional supervision of the local programs be adequate.

Program experience has proven that over the course of a year, a full-time district administrator or program supervisor can accountably manage and supervise 32 volunteers, the cases of 80 family groups (approximately 136 children), 220 hearings, and 40 new petitions. The Program meets this staffing standard in only eleven of its 36 district programs. An additional forty-eight full-time program supervisors are needed if the Program is to meet this accountable staffing standard.

There are thirteen district offices with no secretarial support. A half-time clerical staff member can support the work of up to 500 hearings per year, and a three-quarter-time staff can support 500 to 1000 court hearings a year. A program participates in over 1000 hearings per year needs a full-time support staff. The program presently meets this staffing standard in only thirteen of the 36 district offices. The equivalent of 4.5 FTE support staff positions are needed to upgrade half-time staff to meet this staffing standard, bringing the total program need for support staff to the equivalent of eleven FTEs.

In the area of technology, the Program has five immediate needs.

1. Sixteen field offices have no computers at all.
2. Sixteen offices with caseloads in excess of 400 children need an additional computer work station so that all staff have reasonable access to a computer without interrupting the work of the office's overburdened support staff member.
3. All field offices need to be connected electronically to the state GAL office.
4. Twenty-two of the 28 Guardian ad Litem offices not located in courthouses need fax machines. GAL offices in courthouses are able to use the AOC fax machines in the Clerk of Courts' office.

This technology is vital to support the Program in its:

- performance of criminal records checks on volunteer recruits;
- preparation of the thousands of required volunteer court reports; and

- collection, reporting and analysis of case tracking information and statistics.

In §7A-588, Payment of court appointed attorney or Guardian ad Litem, the law states:

*An attorney or Guardian ad Litem appointed pursuant to 7A-584, 586, or 587 of this Article, pursuant to any other provision of the juvenile code or pursuant to §7A-289.23 shall be paid a reasonable fee fixed by the court in the same manner as fees for attorneys appointed in cases of indigency or by direct engagement for specialized Guardian ad Litem services through the Administrative Office of the Courts...*

We are seeking to pay our attorneys directly out of the indigency attorney fund. This would put our attorneys on equal footing with other attorneys in a community, equal footing with parents attorneys and equal footing with other lawyers in their own communities. When we designed our flat rate system, we based our retainer fees on the number of cases an attorney represented. In practical terms, however, some attorneys work harder than others to represent these same children making the hourly rate disparate. Attorneys who provide better representation should be rewarded for such and the judge is the best position to pay fees to make such happen. This method of payment would improve our ability or retain our attorneys.

## **V. 1999-2001 Expansion Budget Request**

1. Half-time support staff for the 13 district offices with no secretarial support.
2. Upgrade for .75 FTE Regional Administrator position to full time.
3. 48 program supervisors to bring all local offices up to accountable supervision standard.
4. Support staff upgrades (3.5 FTE) to bring all local offices up to appropriate staffing standard.
5. New computers for 16 offices without computers.
6. Second computers for sixteen offices with large caseloads.
7. Computer connectivity to the state office for the 21 GAL offices located outside the courthouse.
8. Fax machines for 22 of the 28 offices not in a courthouse.
9. Additional attorney funds totaling \$500,000.

## **VI. Law Changes Needed**

### **A. Extend Attorney Appointment to a Case to Two Years**

In 1995, the General Assembly's reduction in the Program's attorney fees necessitated that the Program have attorneys present in court after disposition only when a case was known in advance to have contested issues. Program experience indicates that an attorney is needed for every hearing to ensure the interests of the child are represented on equal footing with the interests of the parents and the service providers. It is true that an attorney is not needed at an uncontested review hearing; however, very few hearings are totally uncontested. Issues change frequently for families in crisis. Often in the hours before a supposedly "uncontested" review hearing is to take place, contested issues surface which effect the child's legal interests. Citizen volunteers are not equipped to represent a child's legal interests; likewise, judges are mandated to be impartial and consequently cannot be expected to ensure that the child's interests are presented in court. We therefore recommend that the language of NCGS

§7A-586 be amended to continue the appointment of the attorney for the same two-year period as the volunteer.

[Proceeding with this change is contingent on increased funding for attorney services.]

**B. Mandate Follow-Up Investigations By Guardian ad Litem**

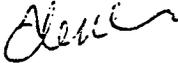
Section 7A-586(b) gives the court the option of ordering the GAL to conduct follow-up investigations to insure that the orders of the court are being properly executed, and to report to the court when the needs of the juvenile are not being met. In practice, this provision is almost always ordered. However, in order to insure the proper execution of the mandate of the GAL as defined in section (a) of the same statute, this provision should be mandatory and not discretionary.

**C. Change Payment of Attorney Advocates to the AOC**

It is unclear whether a law change is necessary to implement this payment plan.

## MEMORANDUM

To: District Administrators

From: Ilene B. Nelson 

Date: May 20, 1998

Subject: Attorney Budget Management Plan for 1998-99

It is time to contract with our attorneys for the 1998-99 fiscal year. We carefully reviewed all the comments we received about our billing practices. There is good news and there is bad news. I will begin with the bad news. The overwhelming request is one we cannot honor and that is to raise our rates. The General Assembly has given us no more funds. The second request cannot be honored either and that is to pay hourly wages. Our funds are too limited to enable us to pay on an hourly fee-for-service basis. The good news is that we are able to offer a simplified billing process, to eliminate the requirement to keep track of hours, and to offer a choice of billing plans to our attorneys. In this memo, I will describe the billing choices and ask that you meet with your attorneys and choose which one works for you. There are a few rules that must be followed which I will articulate first.

**Rule 1:** The entire district chooses one plan. There are no exceptions to this rule.

**Rule 2:** The plan is chosen for the entire fiscal year and cannot be changed mid-stream. a

**Rule 3:** The attorneys must sign contracts that reflect the plan the attorneys have chosen.

**Rule 4:** The choice of plan must be made by **June 5** and contracts must be signed by **June 25**.

### Billing Choices: a

**Plan 1:** This plan is the same as this past year except that we will not be paying for GAL initiated reviews. Billing is required for all services other than the retainer.

Attorneys will be paid:

- ⇒ A retainer for all the work following disposition
- ⇒ \$120 for each adjudication and disposition
- ⇒ \$360 for each GAL initiated TPR
- ⇒ \$120 for each TPR that the attorney participates in
- ⇒ \$40 per hour for each in-court hour after the first six in-court hours on a case with a cap of \$600. (This is a slight variation of what we paid last year when we paid \$120 for each three hour block after the first six in-court hours)
- ⇒ \$40 per hour for approved appeals with a cap of \$500

**Plan 2:** This plan expands the retainer to include services from the beginning of the case through disposition.

Billing will be required for the additional service payments.

Attorneys will be paid:

- ⇒ A retainer for all work from the beginning of the case through the review process at a rate to reflect the total paid for such services last year.
- ⇒ \$360 for each GAL initiated TPR
- ⇒ \$120 for each TPR that the attorney participates in

- ⇒ \$40 for each in-court hour after the first six in-court hours on a case with a cap of \$600.
- ⇒ \$40 per hour for approved appeals with a cap of \$500

**Plan 3:** This plan pays a flat retainer for everything necessary to represent the best interest of the child except for appeals.

The attorney will be paid:

- ⇒ A retainer for all services necessary to represent the best interest of a child-client at a rate to reflect the total paid for all such services last year minus 5%. No billing need take place at all.
- ⇒ \$40 per hour for approved appeals with a cap of \$500

Each plan has pros and cons. Plan 1 has the pro of being familiar. This plan is similar to the one we have had. Plan 2 eliminates the billing for dispositions. Plan 3, while paying 5% less money than last year, offers the advantage of total predictability and no billing.

I think that the above is very self explanatory. We have enclosed all the documents you will need to meet with your attorneys and make an informed decision. Please be mindful of the rules. If you have any questions, Sandra, Cindy, and I are available to answer them for you.

Thank you for your help. **Please respond by the deadline of June 5.** It is important that we have time to draft contracts and get them signed before the end of this fiscal year.

cc: State Office Staff  
Bob Atkinson

Enclosures: Implementation Schedule  
Attorney Payment Plan Options for District. (Due to Regional Administrator by June 5, 1998)



ADMINISTRATIVE OFFICE OF THE COURTS

RALEIGH, NC

DALLAS A. CAMERON, JR.  
DIRECTOR

ALAN D. BRIGGS  
ASSISTANT DIRECTOR

ILENE B. NELSON, JD  
ADMINISTRATOR  
GUARDIAN AD LITEM PROGRAM

ANGELA PHILLIPS  
DISTRICT ADMINISTRATOR  
GUARDIAN AD LITEM PROGRAM  
JUSTICE CENTER  
HIGHWAY 321  
P. O. BOX 728  
NEWTON, N.C. 28658  
TELEPHONE (704) 465-1165

Memorandum

To: Ilene Nelson, Administrator

From: Angela Phillips, District Administrator *AMP*

Date: June 10, 1998

Re: Attorney fees

Let me begin my stating that I understand there is no more money. However, the 25th Judicial District is unique and *I want to outline those reasons:*

*1. We are the only district in which all 3 counties are Kellogg funded Families for Kids.*

- a. This project requires 60 day Action Meeting attendance.*
- b. The committee/parties also meet every other month in the evening to plan.*
- c. The project requires special attention to expediency that requires additional legal advocacy.*

*2. We are the only other district in the state with the Court Improvement Project. Therefore, we are the only district in the state in which all 3 counties participate in both projects.*

- a. The Court Improvement Project includes pre-trial conferences in all 3 counties. Attorney advocates should participate. This requires 8 hours per month in each county.*
- b. Attorney advocates are taking leadership roles in committees,*

*planning, and monthly meetings.*

*c. Attorney advocates are expected to attend the Day One Hearings. These are estimated to involve 75 Day One Hearings that will last 1 to 1 1/2 hours. The parties will have 24 hours or less notice.*

*d. Already, the meetings have required almost weekly attendance.*

*3. The staff are assuming additional responsibilities that do not apply to other districts. I will not outline those at this time.*

*In addition, our attorney advocates did not initially contract for these extra duties. We are subject to loose 2 of our 3 attorneys. Tamara will not promise more than a month to month commitment and her reasons include these extra duties on top of the decreased pay. Dewey has not been happy for some time and must re-evaluate each contract period. Molly is the only attorney really hanging in there at this time. I cannot afford to loose 1 or 2 attorneys.*

*Surely, the reasoning outlined convinces the state that the 25th Judicial District is unique in their work and commitment to improving the status of their children and the court improvements required to make these changes. Even \$50-100 more per month would go a long way toward validating the work these attorneys perform on behalf of the children and these 2 new projects.*

*Any resignations at this time would adversely affect and impact on these 2 projects and put an unreasonable burden on already burdened staff. What if the attorneys refuse to assume the additional responsibilities? I do not see how staff can take on much more. And is it reasonable to ask that of them in the legal arena?*

*Please let me know if there is anything that can be done for our district. Thank you. And thank you for all you already do!*

CC: ALMA BROWN, Regional Administrator



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P. O. Box 728  
NEWTON, N.C. 28658  
TELEPHONE (704) 465-1165

Memorandum

To: Alma Brown, Regional Administrator  
From: Angela Phillips, District Administrator *APH*  
Date: August 19, 1998  
Re: Statistics of Court Improvement Project  
and Families for Kids

Given the resignation of Tamara Augustine and the impact of the above projects, I believe it would be helpful to have the statistics of these extra tasks outlined. Those statistics are actual hours of work involved and do include any informal discussions/meetings.

It has been my personal policy to be proactive in planning for my district. The amount of time required to adequately participate in these worthwhile projects has caused me to re-examine the priorities for our unique situation here.

As I stated earlier, I believe it is appropriate to request that my supervisors evaluate this district for additional money for attorney advocates and additional staff for carrying out these duties.

In the alternative, I am requesting assistance in prioritizing the duties in a way that allows my district to continue its success. Thank you for your help and support during these challenging times.



ADMINISTRATIVE OFFICE OF THE COURTS  
RALEIGH, NC

DALLAS A. CAMERON, JR.  
DIRECTOR

ALAN D. BRIGGS  
ASSISTANT DIRECTOR

25th Judicial District  
Catawba County Only

ILENE B. NELSON, JD  
ADMINISTRATOR  
GUARDIAN AD LITEM PROGRAM  
ANGELA PHILLIPS  
DISTRICT ADMINISTRATOR  
GUARDIAN AD LITEM PROGRAM  
JUSTICE CENTER  
HIGHWAY 321  
P. O. BOX 728  
NEWTON, N.C. 28658  
TELEPHONE (704) 465-1165

Statistics of Time Required for  
Court Improvement Project  
and  
Families for Kids

<u>July 1998</u>	Court Improvement Project
Pretrials	9 hours
Mock 1 Day Hearing*	2 hours
7:30 a.m. Board Meeting*	2 hours
CIP Lunch meeting*	2 hours
Meeting w/Director*	2 hours
Travel Time*	3 hours
<hr/>	
Total	20 hours

<u>July 1998</u>	Families for Kids
6 - 60 Day Action mtgs. *	12 hours
Mgt. w/ lead vol re: projects*	2 hours
Noticing for Action mtgs.	2 hours
Travel Time*	3 hours
<hr/>	
Total	16 hours

August 1998

**Court Improvement Project**

Pretrials	6 hours	<b>Projected time for 1 Day Hearings= 4 per month X 1 hour= <u>4 additional hours</u></b>
Mock 1 Day Hearing*	2 hours	
7:30 a.m. Board Meeting*	3 hours	
CIP Presentation-Caraway and preparation	6 hours	
Travel Time (excludes pres.)	3 hours	
<hr/>		
<b>Total</b>	<b>20 hours</b>	<b>per month</b>

August 1998

**Families For Kids**

4 - 60 Day Action Meetings*	8 hours
FFK Staffing for Adoption	1 hour
FFK Staffing for Adoption	2 hours
FFK Staffing for Treatment*	2 hours
Pretrial Staffing*	2 hours
Vol. Mtg. to discuss projects*	2 hours
Travel Time*	5 hours
<hr/>	
<b>Total</b>	<b>22 hours</b>

Each month the 2 projects are requiring an average of 40 hours in Catawba County alone. This is 25% of our work week. The majority of the volunteers cannot attend Action Meetings. They attend pretrial conferences in the great majority but a staff person must be present. Volunteers do not attend Board Meetings as the project encourages the District Administrator(preferably) or staff to participate.

**One Day Hearings have commenced beginning August 19, 1998. The estimated time required in Catawba County is 4 per month X 1 hour= 4 hours additional per month. Staff must attend.**

**Based on current statistics the 25th District is "down" 1 1/4 staff positions. This does not include the above figures for the two projects. The time required for the projects in Burke and Caldwell Counties together equal approximately the statistics in Catawba County. Therefore, we are "down" an estimated 2 staff positions.**

**These figures do not take into account the unique responsibilities and level of liability placed on staff. Neither do they include the dilemma of possible lack of attorney participation.**

**Program Assistant's Priorities****(1) Court Reports: (10 Hrs./week)**

Type  
Copy  
Certificate of Service  
If a Review Report, get all copies stamped by Clerk  
Deliver(fax/mail)

**(2) Setting up New Cases: (4 Hrs./week)**

Making folders:  
    our file  
    volunteer file  
Writing DSS to get information about case(Info Request)

**(3) GALIS - once up & running for just weekly maintenance (10 Hrs./week)**

Updating  
Enter of new cases  
Printing reports & lists for program  
Enter of Volunteers

**(4) Filing (5 Hrs./week)**

DSS review team notes  
Court notes group home reports

**(5) Contacting volunteers (3 Hrs./week)**

DSS review team meetings  
Court dates  
Any info that comes on their client (both hard copy & verbal)

**Daily Chores: (4 Hrs./week)**

Mail  
Typing letters  
Answering telephone  
Copying  
Faxing  
Pick up new petitions  
Pick up Court calendars

**Monthly Chores: (3 Hrs./ month)**

Ordering supplies (ask everyone about supplies needed)  
Time Sheets (signed and mailed)  
STATS (mail or fax)  
Travel Sheets (signed and mailed)

May 19, 1998

Galis is presenting a two fold problem for us - hardware and time. Our hardware, both computer and monitor are out dated and/or not large enough. Our Gateway 200 does not have enough memory nor does it have the speed required to use Galis effectively. For example:

- To print a monthly report of Cases for continued application or closure with 34 clients took 2 1/2 minutes.
- There is a lag time between the key board and the cursor in the data field, therefore we have to type slower.
- The input screens on all of the data entry areas does not fit on our 12" monitor, therefore we are spending time on all 10 screens, scrolling up and down in order to put the information in all the data fields.
- To print eight reports on one child (Child client information, Petition, Case status information, Case assignment and volunteer profile, Hearing information, Placements, Respondent information, and Social worker and other contacts) took ten minutes.
- Once we have collected all our information on a new case with one child it will take 30 minutes to input it. We have 350 cases. This will take us over 150 hours just to get our cases into the system. We also need time to update our base of volunteers, lawyers and judges.

I did call Mark Vasudevan on May 19th for advice and he had me clean up the hard disk and make sure our equipment was recognizing all the memory installed. The program is just as slow as it was before those changes and in Mark's opinion this is due to our equipment. We would really like to use this program as we feel it would help us tremendously, but we just do not have the time required to do the data entry to get the system up and running with the computer we have.

- \* don't have history of the case in each file
- \* updates take 5-6 minutes
- \* takes 15 min to enter new petition, etc - if have info at fingertips & usually we don't

Topic: Computer Needs for Office:

At the moment we have a computer that is a 486 with 16 megs of memory. Residing on the hard drive is Windows 3.1 and Microsoft Word and Excel. We have a computer with the minimum requirements to operate Galis. The data entry screens require a larger monitor than our 12" to operate Galis without scrolling when entering data. This is more time consuming because Galis was not written to jump the screen as you move from field to field. It was made just to fit a larger monitor.

When doing reports (which are kept on individual disks because there is not enough room on our hard disk) we work off floppy disks. Not only does this slow down the computer, but our computer will only read the A drive once. If we switch the disks and ask it to read the A drive again it responds 'Unable to access data.' We then have to shut our computer off to clear out the RAM, turn it on and then continue. I have spoken to Mark Vasudevan about this problem and he walked me through the steps to expand RAM to the utmost and to check for any other problems. He found none and told me it was the best the computer can do.

This past summer we had a 20 hour/week secretary, an Intern, Cherri Punch and myself all trying to write reports on one computer. Not only did we find ourselves pacing in front of the room that holds the computer, we could not process the reports in a timely manner. If we had someone to enter our data into Galis they could not get on the computer to do it. Letters, memos to anyone, etc. are very often typed in haste as we only have a short time to do them.

As Gaston County increases its number of cases of abused and neglected children our office needs to have more equipment to run efficiently. If this does not improve we will have to do the best we can but I am afraid we will end up sacrificing quality.

**1997 Guardian Ad Litem Study Committee  
February 26, 1998**

**ROLES OF ATTORNEYS IN JUVENILE ABUSE, NEGLECT, AND DEPENDENCY CASES**

**I. Some Basic Premises**

- A. All parties to a court proceeding are entitled to be represented by counsel, but not to have court-appointed counsel. Primary ways in which parties obtain representation are:
  1. Counsel retained by the party
  2. Counsel retained by someone else on the party's behalf
  3. Pro bono representation
  4. Representation through a legal services program
  5. Court-appointed counsel, if the party is indigent and has a statutory right to appointed counsel
- B. The legislature provides by statute that certain parties, in certain types of proceedings, if indigent, are entitled to appointed counsel. Sometimes this statutory right is based on an underlying constitutional right.
- C. A party may waive his or her right to counsel, including appointed counsel, if the party does so understandingly and knowingly.
- D. When an attorney is appointed to represent an indigent party, the cost of representation is borne by the state. Depending on the outcome of the case, either the person for whom counsel was appointed or, in the case of a child or dependent, a parent or other person responsible for that party may be liable for reimbursing the state for the costs.
- E. North Carolina law provides for two somewhat different types of "guardian ad litem".
  1. In any civil (as opposed to criminal) court action, a party who is either incompetent or a minor (under age eighteen) must participate in the action through an adult representative. If the person does not have a court-appointed general guardian, the court must appoint a guardian ad litem for the specific and limited purpose of representing the minor or incompetent party's interest in the proceeding. (G.S. 1A-1, Rule 17, N.C. Rules of Civil Procedure)
    - a. The guardian ad litem may be, but does not have to be, an attorney. If the guardian ad litem is not an attorney, he or she may retain an attorney.
    - b. The court may assign the fee of the guardian ad litem to a party as part of the "costs" in the action.
  2. In juvenile abuse, neglect, dependency, and termination of parental rights proceedings, the court sometimes must and other times may appoint a guardian ad litem to represent the child in those proceedings. (Juvenile Code and termination of parental rights statutes)
    - a. The guardian ad litem generally is a volunteer provided through the district's Guardian Ad Litem program (overseen by the state GAL Program in the Administrative Office of the Courts).
    - b. If the guardian ad litem is not an attorney, the court also must appoint an "attorney advocate" to ensure that the child's legal rights are protected.

**ARTICLE 39.**  
**Guardian Ad Litem Program.**

Sec.

7A-489. Office of Guardian Ad Litem Services established.

7A-490. Implementation and administration.

7A-491. Conflict of interest or impracticality of implementation.

7A-492. Alternative plans.

7A-493. Civil liability of volunteers.

**§ 7A-489. Office of Guardian Ad Litem Services established.**

There is established within the Administrative Office of the Courts an Office of Guardian Ad Litem Services to provide services in accordance with G.S. 7A-586 to abused, neglected, or dependent juveniles involved in judicial proceedings, and to assure that all participants in these proceedings are adequately trained to carry out their responsibilities. Beginning on July 15, 1983, and ending July 1, 1987, the Administrative Office of the Courts shall establish in phases a statewide guardian ad litem program comprised of local programs to be established in all district court districts of the State. Each local program shall consist of volunteer guardians ad litem, at least one program attorney, a program coordinator who is a paid State employee, and such clerical staff as the Administrative Office of the Courts in consultation with the local program deems necessary. The Administrative Office of the Courts shall promulgate rules and regulations necessary and appropriate for the administration of the program.

(1983, c. 761, s. 160; 1987 (Reg. Sess., 1988), c. 1037, s. 32; c. 1090, s. 7.)

**Editor's Note.** - Session Laws 1997-443, s. 18.19, provides that attorneys providing legal services for the Guardian Ad Litem program shall bill the Judicial Department within 60 days after the end of each quarter of the fiscal year in order to be reimbursed for those services.

Session Laws 1997-443, s. 1.1, provides: "This act shall be known as 'The Current Operations and Capital Improvements Appropriations Act of 1997.'"

Session Laws 1997-443, s. 35.2, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1997-99 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1997-99 fiscal biennium."

**§ 7A-490. Implementation and administration.**

(a) Local Programs. - The Administrative Office of the Courts shall, in cooperation with each chief district court judge and other personnel in the district court district, implement and administer the program mandated by this Article. Local programs shall be established in eight district court districts in fiscal year 1983-84. Where a local program has not yet been established in accordance with this Article, the district court district shall operate a guardian ad litem program approved by the Administrative Office of the Courts.

(b) Advisory Committee Established. - The Director of the Administrative Office of the Courts shall appoint a Guardian Ad Litem Advisory Committee consisting of at least five members to advise the Office of Guardian Ad Litem Services in matters related to this program. The members of the Advisory Committee shall receive the same per diem and reimbursement for travel expenses as members of State boards and commissions generally.

(1983, c. 761, s. 160; 1987 (Reg. Sess., 1988), c. 1037, s. 33.)

**§ 7A-491. Conflict of interest or impracticality of implementation.**

If a conflict of interest prohibits a local program from providing representation to an abused, neglected, or dependent juvenile, the court may appoint any member of the district bar to represent said juvenile. If the Administrative Office of the Courts determines that within a particular district court district the implementation of a local program is impractical, or that an alternative plan meets the conditions of G.S. 7A-492, the Administrative Office of the Courts shall waive the establishment of the program within the district.

(1983, c. 761, s. 160; 1987 (Reg. Sess., 1988), c. 1037, s. 34; c. 1090, s. 8.)

**§ 7A-492. Alternative plans.**

A district court district shall be granted a waiver from the implementation of a local program if the Administrative Office of the Courts determines that the following conditions are met:

(1) An alternative plan has been developed to provide adequate guardian ad litem services for every child consistent with the duties stated in G.S. 7A-586; and

(2) The proposed alternative plan will require no greater proportion of State funds than the district court district's abuse and neglect caseload represents to the State's abuse and neglect caseload. Computation of abuse and neglect caseloads shall include such factors as child population, number of substantiated child abuse and neglect reports, number of child abuse and neglect petitions, number of abused and neglected children in care to be reviewed pursuant to G.S. 7A-657, nature of the district's district court caseload, and number of petitions to terminate parental rights.

When an alternative plan is approved pursuant to this section, the Administrative Office of the Courts shall retain authority to monitor implementation of the said plan in order to assure compliance with the requirements of this Article and G.S. 7A-586. In any district court district where the Administrative Office of the Courts determines that implementation of an alternative plan is not in compliance with the requirements of this section, the Administrative Office of the Courts may implement and administer a program authorized by this Article.

(1983, c. 761, s. 160; 1987 (Reg. Sess., 1988), c. 1037, s. 35.)

**§ 7A-493. Civil liability of volunteers.**

Any volunteer participating in a judicial proceeding pursuant to the program authorized by this Article shall not be civilly liable for acts or omissions committed in connection with the proceeding if he acted in good faith and was not guilty of gross negligence.

(1983, c. 761, s. 160.)

**ARTICLE 47.  
Basic Rights.**

Sec.

7A-584. Juvenile's right to counsel; presumption of indigence.

7A-585. Appointment of guardian.

7A-586. Appointment and duties of guardian ad litem.

7A-587. Parent's right to counsel.

7A-588. Payment of court appointed attorney or guardian ad litem.

7A-589 through 7A-593. [Reserved.]

**§ 7A-584. Juvenile's right to counsel; presumption of indigence.**

(a) A juvenile alleged to be within the jurisdiction of the court has the right to be represented by counsel in all proceedings. In any proceeding in which delinquency is alleged, the judge shall appoint counsel unless counsel is retained for the juvenile.

(b) All juveniles shall be conclusively presumed to be indigent, and it shall not be necessary for the court to receive from any juvenile an affidavit of indigency.

(1979, c. 815, s. 1.)

**§ 7A-585. Appointment of guardian.**

In any case when no parent appears in a hearing with the juvenile or when the judge finds it would be in the best interest of the juvenile, the judge may appoint a guardian of the person for the juvenile. The guardian shall operate under the supervision of the court with or without bond and shall file only such reports as the court shall require. The guardian shall have the care, custody, and control of the juvenile or may arrange a suitable placement for the juvenile and may represent the juvenile in legal actions before any court. The guardian may consent to certain actions on the part of the juvenile in place of the parent including (i) marriage, (ii) enlisting in the armed forces, and (iii) enrollment in school. The guardian may also consent to any necessary remedial, psychological, medical, or surgical treatment for the juvenile. The authority of the guardian shall continue until the guardianship is terminated by court order, until the juvenile is emancipated pursuant to Article 56 of this Chapter, or until the juvenile reaches the age of majority.

(1979, c. 815, s. 1; 1997-390, s. 7.)

**§ 7A-586. Appointment and duties of guardian ad litem.**

(a) When in a petition a juvenile is alleged to be abused or neglected, the judge shall appoint a guardian ad litem to represent the juvenile. When a juvenile is alleged to be dependent, the judge may appoint a guardian ad litem to represent the juvenile. The guardian ad litem and attorney advocate have standing to represent the juvenile in all actions under this Subchapter where they have been appointed. The appointment shall be made pursuant to the program established by Article 39 of this Chapter unless representation is otherwise provided pursuant to G.S. 7A-491 or G.S. 7A-492. The appointment shall terminate at the end of two years. Upon motion of any party including the guardian ad litem, or upon the judge's own motion, the guardian ad litem may be reappointed upon a showing of good cause. In every case where a nonattorney is appointed as a guardian ad litem, an attorney shall be appointed in the case in order to assure protection of the child's legal rights through the dispositional phase of the proceedings, and after disposition when necessary to further the best interests of the child. The duties of the guardian ad litem program shall be to make an investigation to determine the facts, the needs of the juvenile, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at adjudication; to explore options with the judge at the dispositional hearing; and to protect and promote the best interest of the juvenile until formally relieved of the responsibility by the judge.

(b) The judge may order the Department of Social Services or the guardian ad litem to conduct follow-up investigations to insure that the orders of the court are being properly executed and to report to the court when the needs of the juvenile are not being met. The judge may also authorize the guardian ad litem to accompany the juvenile to court in any criminal action wherein he may be called on to testify in a matter relating to abuse.

(c) The judge may grant the guardian ad litem the authority to demand any information or reports whether or not confidential, that may in the guardian ad litem's opinion be relevant to the case. Neither the physician-patient privilege nor the husband-wife privilege may be invoked to prevent the guardian ad litem and the court from obtaining such information. The confidentiality of the information or reports shall be respected by the guardian ad litem and no disclosure of any information or reports shall be made to anyone except by order of the judge or unless otherwise provided by law in Chapter 7A.

(1979, c. 815, s. 1; 1981, c. 528; 1983, c. 761, s. 159; 1987 (Reg. Sess., 1988), c. 1090, s. 5; 1993, c. 537, s. 1; 1995, c. 324, s. 21.13.)

**§ 7A-587. Parent's right to counsel.**

In cases where the juvenile petition alleges that a juvenile is abused, neglected or dependent, the parent has the right to counsel and to appointed counsel in cases of indigency unless the parent waives the right. In no case may the judge appoint a county attorney, prosecutor or public defender.

(1979, c. 815, s. 1; 1981, c. 469, s. 14.)

**§ 7A-588. Payment of court appointed attorney or guardian ad litem.**

An attorney or guardian ad litem appointed pursuant to G.S. 7A-584, 7A-586 or 7A-587 of this Article, pursuant to any other provision of the Juvenile Code, or pursuant to G.S. 7A-289.23 shall be paid a reasonable fee fixed by the court in the same manner as fees for attorneys appointed in cases of indigency or by direct engagement for specialized guardian ad litem services through the Administrative Office of the Courts. The judge may require payment of the attorney or guardian ad litem fee from a person other than the juvenile as provided in G.S. 7A-450.1, 7A-450.2 and 7A-450.3. In no event shall the parent or guardian be required to pay the fees for an appointed attorney or guardian ad litem in an abuse, neglect, or dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or dependent, or, in a proceeding to terminate parental rights, unless the parent's rights have been terminated. A person who does not comply with the court's order of payment may be punished for contempt as provided in G.S. 5A-21.

(1979, c. 815, s. 1; 1983, c. 726, ss. 2, 3; 1987 (Reg. Sess., 1988), c. 1090, s. 6; 1991, c. 575, s. 1.)



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S/H

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99-LNZ-011

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Guard.Ad Litem/Attys.

Public

Sponsors:

Referred to:

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR ATTORNEY REPRESENTATION OF CHILDREN  
3 REPRESENTED BY GUARDIAN AD LITEM PROGRAM THROUGHOUT PROCEEDINGS  
4 OF THE CASE.  
5 The General Assembly of North Carolina enacts:  
6                   Section 1. G.S. 7B-601, as recodified by Section 6 of  
7 S.L. 1998-202, reads as rewritten:  
8 "§ 7B-601. Appointment and duties of guardian ad litem.  
9 (a) When in a petition a juvenile is alleged to be abused or  
10 neglected, the court shall appoint a guardian ad litem to  
11 represent the juvenile. When a juvenile is alleged to be  
12 dependent, the court may appoint a guardian ad litem to represent  
13 the juvenile. The guardian ad litem and attorney advocate have  
14 standing to represent the juvenile in all actions under this  
15 Subchapter where they have been appointed. The appointment shall  
16 be made pursuant to the program established by Article 12 of this  
17 Chapter unless representation is otherwise provided pursuant to  
18 G.S. 7B-1202 or G.S. 7B-1203. The appointment shall terminate at  
19 the end of two years. The court may reappoint the guardian ad  
20 litem pursuant to a showing of good cause upon motion of any  
21 party, including the guardian ad litem, or of the court. In every  
22 case where a nonattorney is appointed as a guardian ad litem, an  
23 attorney shall be appointed in the case in order to assure  
24 protection of the juvenile's legal rights ~~through the~~

1 ~~dispositional phase of the proceedings, and after disposition~~  
2 ~~when necessary to further the best interests of the juvenile.~~  
3 within the proceeding. The duties of the guardian ad litem  
4 program shall be to make an investigation to determine the facts,  
5 the needs of the juvenile, and the available resources within the  
6 family and community to meet those needs; to facilitate, when  
7 appropriate, the settlement of disputed issues; to offer evidence  
8 and examine witnesses at adjudication; to explore options with  
9 the court at the dispositional hearing; and to protect and  
10 promote the best interests of the juvenile until formally  
11 relieved of the responsibility by the court.

12 (b) The court may order the department of social services or  
13 the guardian ad litem to conduct follow-up investigations to  
14 ensure that the orders of the court are being properly executed  
15 and to report to the court when the needs of the juvenile are not  
16 being met. The court may also authorize the guardian ad litem to  
17 accompany the juvenile to court in any criminal action wherein  
18 the juvenile may be called on to testify in a matter relating to  
19 abuse.

20 (c) The court may grant the guardian ad litem the authority to  
21 demand any information or reports, whether or not confidential,  
22 that may in the guardian ad litem's opinion be relevant to the  
23 case. Neither the physician-patient privilege nor the husband-  
24 wife privilege may be invoked to prevent the guardian ad litem  
25 and the court from obtaining such information. The  
26 confidentiality of the information or reports shall be respected  
27 by the guardian ad litem, and no disclosure of any information or  
28 reports shall be made to anyone except by order of the court or  
29 unless otherwise provided by law."

30 Section 2. This act is effective when it becomes law.

